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HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.2659 OF 2003

PETITIONER: Jagdish Prasad Tiwari, Aged 63 years,
S/o Shri Ram Khilawan Tiwari,
Retd. Assistant Engineer,
R/o Opposite Deshbandhu Press,
Civil Lines, Bilaspur,
Tehsil & Distt. Bilaspur (C.G.)

Versus

RESPONDENTS:

1. State of Chhattisgarh,
Through the Secretary,
Water Resources Department,
Raipur (C.G.)

2. Executive Engineer,
Mahanadi Jalasaya Project,
Second Phase Work Division,
Raipur (C.G.)

3. Executive Engineer,
Water Resources Division,
Mahasamund (C.G.)

4. Superintendent Engineer,
Mahanadi Circle, Raipur (C.G.)

5. Superintending Engineer,
Minimata Bango Dam, Division-II,
Janjgir, Distt.Janjgir-Champa (C.G.)

POST FOR ORDER ON 4th September, 2003

Sd/-
L.C.BHADOO
Judge

4th September, 2003

(41)

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Janjgir, Distt.Janjgir-Champa
(C.G.)

Present: -

Shri Somnath Verma, Advocate: For the petitioner

Shri Ranbir Singh, Govt. Advocate: For the State/respondents

Before: Hon'ble Shri L.C. Bhadoo, J

O R D E R

(Passed on 4th September, 2003)

1. The main grievance of the petitioner in this petition under Article 226/ 227 of the Constitution of India, is against letter dated 27.03.1997 sent by respondent No.2, by which respondent No.2 had

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issued a recovery memo showing Rs.36,066-96 as miscellaneous advance in the name of the petitioner.

2. The petitioner was working as Assistant Engineer in the Irrigation Department under the respondents from where he retired on 31st December, 2000. A recovery memo dated 27.03.97 issued by respondent No.2 along with another memo dated 04.08.97 issued by the Executive Engineer, Minimata Bango Dam, Division-III, Machadoli, was sent to the petitioner, in which it was mentioned that an amount of Rs.36,066-96 is outstanding against the petitioner as miscellaneous advance taken by him for doing departmental public work. At the time of sanctioning the pension without giving reasonable opportunity to the petitioner, the respondents deducted huge amount of Rs.55,000/- from his gratuity amount. Apart from that the respondents are deducting 10% of the pension continuously which is illegal.

3. I have heard the learned counsel for the parties.

4. Learned counsel for the petitioner submitted that after a period of 24 years all of a sudden without giving opportunity to the petitioner and without issuing any show cause notice and that too in spite of the request of the petitioner for supplying documents or material by which the petitioner took the advance, all of a sudden, the respondents have deducted Rs.55,000/- and they are continuously deducting 10% of his pension amount.

5. A perusal of the document (Annexure P-1) shows that on 27.03.97, a memo was sent to the petitioner showing Rs.33,695-90 as outstanding against the petitioner. On receiving this, the petitioner sent a letter to the Executive Engineer on 18.09.97 in which he mentioned that he worked at Minimata Bango Dam up to December, 1987, but till then no intimation was sent to him regarding any amount outstanding against him. He further asked for photo stat

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copies of relevant documents in order to make a representation against the said recovery. Again on 27.08.2001, a recovery memo was sent to the petitioner. In reply to that, the petitioner again moved a letter on 21st June, 2002 to the Executive Engineer showing that he stands retired in the month of December, 2000, therefore, necessary particulars of the advance made to him be supplied to him, so that he can send his explanation and defend his case. In spite of that, no documents were supplied to the petitioner. Therefore, again he wrote a letter on 27.07.2002 (Annexure P-6) narrating all the facts and again requested to supply him the necessary vouchers, record and copies of the audit objections, so that he can forward his explanation. Ultimately, a notice was sent by the counsel for the petitioner on 10.08.2002 under Section 80 of the C.P.C. In reply to that, the Superintendent Engineer sent a reply on 26.09.2002 to the counsel for the petitioner.

6. Perusal of the above documents show that the petitioner is repeatedly asking the respondents to supply copies of relevant documents, copy of the audit report and vouchers by which the amount was advanced to him. But, the respondents are not supplying the copies. Moreover, a lump sum amount of Rs.55,000/- has been deducted and the respondents are regularly deducting 10% of the pension amount.

7. Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, on agreement of both the counsel, it is ordered that respondent No.2 shall supply to the petitioner all the relevant documents concerning the amount which was advanced to the petitioner i.e. vouchers; entry of register, if any; audit report and other material showing advance to the petitioner within a period of thirty days from the date of receipt of a copy of this order and in addition, the petitioner is entitled to approach respondent No.2 for obtaining copies. After receipt of the

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relevant documents, the petitioner shall send his representation/ explanation to respondent No.5 within a period of thirty days from the date of the receipt of relevant papers/documents. After receipt of the representation/explanation of the petitioner, respondent No.5 shall decide the matter finally within another thirty days thereof. If the petitioner is not satisfied with the order of respondent No.5, then he is at liberty to take appropriate recourse to law.

8. Accordingly, the writ petition stands disposed of.

Sd/-
L.C.BHADOO
Judge

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